

DD / S REGISTRY  
FILE *Personnel* 17

28 March 1966

**MEMORANDUM FOR THE RECORD**

**SUBJECT: Credit of Prior Military Service for Civil Service Retirement**

1. Met with Major General Charles R. Roderick, Deputy Assistant to the Secretary of Defense (Legislative Affairs). Also present were:

Colonel J. F. Lawrence, Deputy Director, Legislative Liaison, Office of Secretary of Defense  
Colonel H. B. Allen, Office of the Deputy Assistant Secretary of Defense, Military Personnel Policy  
Major J. I. Posner, Office of the Deputy Assistant Secretary of Defense, Military Personnel Policy

The purpose of the discussion was to alert the Pentagon at the DOD level to the possible jeopardy of certain retired military officers who planned eventually to retire under the Civil Service Retirement Act and tack on to their total service their military service. I explained the problem very carefully pointing out that if the individual happened to die before he retires from Civil Service the survivor's annuity could not be calculated taking into account military service. This was a new problem to this group although obviously the two Colonels and the Major were fully informed on retirement benefits and other aspects of compensation.

2. I then pointed out that in informal discussions with the Air Force which included checking with the Air Force finance center in Denver we had raised the question of how to avoid this possible jeopardy. I furnished them with a sample conditional waiver of

retirement waiving military retired pay as of the date of retirement or date of death whichever occurred earlier. I stated that the Air Force had informally stated that this would be acceptable procedure to permit them to certify to the Civil Service Commission that the individual was not in receipt of military retired pay on date of death or retirement thus permitting Civil Service Commission to tack on all military service in computing the Civil Service annuity. One of the individuals pointed out that of course the service after 1 January 1957 which is creditable for social security purposes might result in an award of social security benefits and that such service could not be utilized in the computation. I said we were well aware of this problem.

3. The reaction of the group was mixed. General Roderick thought the conditional waiver was a gimmick and morally the individual should elect one way or the other. On the other hand, several of the technicians took the view that if these were an individual's legal entitlements although possibly not anticipated by the Congress, there was not appropriate action either by the Pentagon or employing civilian agencies. The group fully agreed that if a request to the Air Force to approve this type of waiver were transmitted it would stir questions possibly even resulting in a request to GAO for an informal opinion. The group also agreed that within a short period news of this problem would find its way into the various military journals particularly the Retired Officers Association. It was pointed out that retired enlisted men could also be faced with this problem but they were not too concerned about the political aspects of enlisted men.

4. I took the position that we were not asking the Pentagon to take any action nor were we taking the position for or against a solution of the type discussed. Nevertheless, we wanted the Pentagon, at an appropriate level, to be alert to the problem particularly where an employee of the Agency, albeit a senior retired Air Force officer, could bring the problem to light in an effort to protect his own rights as he saw them. The group agreed fully that it was up to the individual to take such action as he felt appropriate and that neither the Pentagon nor CIA properly could urge any other action. I had previously indicated

that in all likelihood in the one case we had now the individual would request an official ruling from Air Force on the effectiveness of the conditional waiver.

5. The group was appreciative of being alerted and were going to study the matter further. It is difficult to estimate whether they will take any particular action although I doubt that they will.

S/ John S. Warner

JOHN S. WARNER  
Deputy General Counsel

cc: Ex Dir/Compt  
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